

**AN ORDINANCE PERTAINING TO THE ADOPTION OF CHAPTER 33 OF
THE CODE OF ORDINANCES OF CALVERT COUNTY**

WHEREAS, the Board of County Commissioners of Calvert County, Maryland (hereinafter, the “Board of County Commissioners”) is authorized and empowered, and has adopted programs to permanently conserve forestry and agricultural lands, rural lands, and open space and habitat areas (“Targeted Conservation Areas”);

WHEREAS, the Board of County Commissioners has enacted a number of programs encouraging the transfer of development rights from Targeted Conservation Areas, also referred to as sending sites, to receiving sites in designated growth areas;

WHEREAS, upon the transfer of development rights, existing programs place a conservation easement on the sending sites to restrict the type of activities that may take place on the land to ensure permanent conservation of rural, agricultural, forestry, and resource lands;

WHEREAS, this market-based technique encourages transfer of development from places where the community would like to see less development, like farmland, to town centers;

WHEREAS, the Department of Planning & Zoning has recommended enhancements to existing programs that establish and fund a Calvert County Development Rights Reserve to purchase development rights from sellers in sending areas for either banking and resale, or retirement, by the County;

WHEREAS, a public hearing regarding the adoption of Chapter 33 of the Code was duly advertised for two consecutive weeks before the public hearing held on October 19, 2021 at which time the Board of County Commissioners received public comment; and

WHEREAS, upon due consideration of the comments of the public and staff, the Board of County Commissioners finds it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland to adopt the provisions set forth herein as a new Chapter 33 of the Calvert County Code.

NOW, THEREFORE, BE IT ORDAINED that the Board of County Commissioners of Calvert County, Maryland hereby approves and enacts the following as Chapter 33 of the Calvert County Code:

§ 33-1. Purchase of Development Rights.

- A. There shall be established a Development Rights Reserve.
- B. The purpose and objective of the Development Right Reserve is to facilitate the absorption of Transferable Development Rights (TDRs) for the conservation of lands valuable to the heritage of Calvert County.
- C. The Development Rights Reserve shall be funded from the resale of TDRs, and such other and additional sources as may be approved by the Board of County Commissioners from time to time.
- D. The owner(s) of TDRs certified by the Calvert County Agricultural Preservation Board, approved by the County Commissioners, and with approved conservation covenants recorded among the Land Records of Calvert County, may apply for the sale of TDRs to the County.

- E. The County may not require or condition that any owner of TDRs sell their TDRs to the Development Rights Reserve; the participation of sellers in this program shall be voluntary.
- F. Each application shall be accompanied by a Certificate of Title prepared by a licensed attorney certifying the ownership of the TDRs. This is the responsibility of the applicant to provide.
- G. All owners of the TDRs must join the application.
- H. Applications meeting minimum qualifications shall be reviewed and either approved or rejected in the order in which they are received.
- I. No application shall be approved without sufficient funds to purchase the TDRs offered for sale.
- J. Development rights acquired using Development Rights Reserve funds may be:
 - 1. Deposited and available for resale for use upon a pending development or subdivision application through the Program; or
 - 2. Retired. The development rights shall not be available for resale if matching funding sources bar such use of development rights.

§ 33-2. Sale of Development Rights.

- A. The Development Rights Reserve may sell purchased TDRs.
- B. The price of development rights sold by the Development Rights Reserve shall be set by the Board of County Commissioners annually.
- C. Such price shall be presumptively equal to the current fair market value of the development right, plus an administrative fee of One Percent (1%).
- D. Notwithstanding, the Board of County Commissioners may adjust such price based on consideration of such factors as the Board deems relevant, including the prevailing market rates for development rights and the effect such density credit price may have on the development rights market.
- E. All offers to purchase transferable development rights from the Development Rights Reserve shall:
 - 1. Be in writing;
 - 2. Include a statement that the development rights will be used only inside an identified, eligible receiving area;
 - 3. Include the number of development rights to be purchased; and
 - 4. Include the location of the receiving site.
- F. Payment for purchase of development rights from the Development Rights Reserve shall be in full at the time the development rights are transferred.
- G. Once transferred to a receiving site, development rights are converted to density credits or development credits and are extinguished with the approval of the site plan or plan of subdivision for the receiving site.
- H. The Development Rights Reserve may not resell TDRs for speculation or any other purpose than to be applied to a project with then-current pending approval of the Department of Planning & Zoning.

§ 33-3. Use of Funds.

- A. Funds of the Development Rights Reserve may be used to facilitate the Program.

B. The funds of the Development Rights Reserve shall be available for acquisition of TDRs, to administer and promote the Program and Development Rights Reserve, and to retire debt issued for purchases of development rights.

§ 33-4. Implementing Regulations. The Calvert County Department of Planning & Zoning, with the advice of the Calvert County Agricultural Preservation Advisory Board (APAB), may develop regulations and policies implementing this program.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance;

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are hereby incorporated and adopted as if fully set forth herein; and

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that this Ordinance shall be effective upon recordation and publication of a fair summary.

DONE, this 19th day of October, 2021, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: Commissioners Weems, Hart, and McConkey

Nay: _____

Absent/Abstain: Commissioners Hance (Abstain), and Gadway (Absent)

[Signatures on Following Page]

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND**

Rachel M. Distel

Rachel M. Distel, Clerk

ABSTAINED

Earl F. Hance, President

Steven R. Weems

Steven R. Weems, Vice-President

Approved for form and legal
sufficiency by:

ABSENT

Christopher T. Gadway

John B. Norris, III

John B. Norris, III, County Attorney

Mike Hart

Mike Hart

Kelly D. McConkey

Kelly D. McConkey

Received for Record..... 10/25/21....., 2021
at..... 11:46..... o'clock..... A.M. Same day
recorded in Liber KPS No. 666.....
Folio..... 100..... COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION

Garry P. Smith